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## **PLANNING COMMISSION MEETING MINUTES**

### **REGULAR MEETING**

**JANUARY 24, 2012**

PRESENT: Dommer, Moniz, Mueller, Tanda, Koepp-Baker, McKay

ABSENT: Benich

LATE: None

STAFF: Assistant City Manager (ACM) Little, Interim Community Development Director (ICDD) Piasecki, Community and Economic Development Director (CEDD) Oshinsky, Interim Community & Economic Development Administrator (ICEDA) Rowe, Senior Planner (SP) Tolentino, Associate Planner (AP) Golden, Senior Civil Engineer (SCE) Creer, Senior Civil Engineer (SCE) Behzad

Chair Dommer called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

### **DECLARATION OF POSTING OF AGENDA**

Interim Community & Economic Development Administrator (ICEDA) Rowe certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Dommer opened the floor to public comment for matters not appearing on the agenda.

Leslie Little, Assistant City Manager, introduced Mitchell Oshinsky as the new Community and Economic Development Director.

Dommer closed the floor to public comment.

### **ORDERS OF THE DAY**

No changes.

### **MINUTES:**

**December 13, 2012** COMMISSIONERS MUELLER AND MCKAY MOTIONED TO APPROVE THE DECEMBER 13, 2012 MINUTES WITH THE FOLLOWING

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**REVISIONS:**

Page 3, paragraph 7: Look at the homes that your dad built over on Dunne [**Creekside Village**].

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:**

**AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH**

**CONSENT:**

**1) EXTENSION OF  
TIME, EOT-11-10:  
BARRETT-  
GLOBAL  
PREMIER:**

The applicant is requesting approval of a 12-month extension of time to commence the operation of a senior, rental congregate care retirement residence near the northwest corner of Barrett Avenue and Butterfield Boulevard in an R3 (PD) zoning district (APN 817-30-050).

**COMMISSIONERS MUELLER AND MCKAY MOTIONED TO APPROVE  
THE EXTENSION OF TIME**

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:**

**AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:  
BENICH.**

**CONTINUED  
PUBLIC  
HEARINGS:**

**2) USE PERMIT,  
UP-11-03: ROLLING  
HILLS-AT&T:**

A request for the approval of a conditional use permit to install and operate a wireless telecommunications facility. The applicant proposes to install a 50' monopole mounted with 12 antennas and other associated equipment and 5 equipment cabinets located at ground level. The project is located at 2275 Rolling Hills Dr in an Open Space zoning district (APN 764-02-003). The project is categorically exempt under Section 15303 of the State CEQA Guidelines.

Rowe presented his staff report.

Mueller: In a letter received from a neighbor it was brought up that there was an APN misquote on the noticing that went out.

Rowe: That was pointed out to us. It was also pointed out that the owner has two properties but only received one notice. To minimize costs, we filter out the duplicates. That is why he only received one notice. We feel that the legal requirements for public notice have been satisfied, even though there was a discrepancy on the one APN.

Moniz: Did you get any feedback other than this one email?

Rowe: We received the one email. Also, the gentleman that sent the email viewed the file at our office. We also had a conversation with a resident who lives on Llagas Road but couldn't be here tonight. She can't see the water tank from her

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house so she didn't express any concerns with the application.

McKay: 1) I drove the road along Uvas Dam behind the hill. At one vantage point all I could see was the very top of the tower, but I could see the antenna very clearly. That may not be in our view shed but it's a popular recreation area and it's a view that stands out from Uvas. 2) I don't know if the electrical transformer is something that we will be involved with, but I assume PG&E will give feedback.

Rowe: That will be addressed through the building permit.

McKay: This email also mentions something about FAA notification.

Rowe: That is something that doesn't fall under the local purview. The applicant will need to address that accordingly.

[Mueller disclosed that he visited the site.]

Dommer opened the floor to public comment.

Dirk Hartogs, a resident on Rolling Hills, appeared: I am conceptually in favor of putting a cell tower there but I am opposed to the implementation that is proposed. In looking at the submission, I did not see any alternate ideas, such as two or three shorter antennas. One advantage would be that they look outward, which means you can do maintenance without having to turn the tower off. One reason for such a tall antenna was for enhanced 9-1-1 coverage. If AT&T needs it then other cell phone providers will soon follow. None of this was discussed in the submission. I'd like to know why such a tall tower is needed. In flat areas that might be true, but on a hilltop 20 to 30 feet may be as viable. I've seen no technical documents supporting the need for a 50 foot tower. My understanding from the City is that AT&T will not be sharing this tower with other companies. But that is hearsay. There is a history of companies sharing towers. Virtually 95 percent of cell phones have GPS receivers built in, so the argument for triangulation is false. That was only applicable before the receivers were built in. One big question to ask is "what is the expected future radiated power?" The nature of data is that people always want more, so whatever that power is now it will increase in the future.

Dommer: What are your credentials?

Hartogs: I am speaking as a neighboring resident but I've worked developing cellular technology and I've been an expert witness primarily on patent matters involving cellular technology. I have no business for or against AT&T. I bring this up simply as a situation that needs to be done right the first time. In looking at the pictures that are in the packet, the height in the first picture doesn't look so bad. But looking at the second picture, where it's really going to be placed, the tower is clearly very tall.

Kevin Bowyer of AT&T appeared to answer questions.

Koepp-Baker: Is it possible to get the same cellular coverage by having a shorter tower?

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Bowyer: Our rate-of-frequency engineers have a certain height they want to meet for Uvas Road. Anything less than 50 feet is not going to meet adequate coverage requirements to span the area in question along Uvas Road.

Koepp-Baker: So it's Uvas you're concerned about, not Llagas? And it's going to look like what's in this picture?

Bowyer: Yes.

Mueller: So fifty feet looks like it's to the top of the antenna, not to the top of the tower?

Bowyer: It's to the top of the tower.

Mueller: That's not what the drawings show.

Rowe: You should have received a revised set submitted last week that shows the top of the tower height to be 50 feet. Also, condition No. 11 of the resolution does state that AT&T is required to allow co-location of additional mobile carriers.

Mueller: Is it possible to get some landscaping around the antenna that would obscure the pole more?

Rowe: Condition 13 of the resolution includes the installation of landscaping for screening and irrigation.

McKay: Do you have other types of camouflage poles, other than the monopine?

Bowyer: There are different variations of trees, but they all look pretty much like the monopine. And they don't look very natural. They don't blend in as well as you would think.

Koepp-Baker: Why did you choose this type of antenna?

Bowyer: Because we needed four antennas per sector and the T-arms are the only design there is.

Hartogs: We still have not seen any other possible scenarios. If we're going to put everyone else's antennas on that tower too, 50 feet is not enough. It would have to become 75 or 80. Some of this appears to be very contradictory and incomplete.

Dommer closed the floor to public comment.

**COMMISSIONERS MUELLER AND MCKAY MOTIONED TO APPROVE  
THE CONDITIONAL USE PERMIT WITH THE INSTALLATION OF  
LANDSCAPING**

McKay: I wasn't very happy about putting an antenna up there until I realized that a pine would not fit in. Can we review it in the future so maintain control over what

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happens?

Mueller: Absolutely. No users can get added without an amendment to the Conditional Use Permit. On top of that, the CUP gets reviewed once a year. If there are complaints it will be brought up. Having been on the site, I think if you add some landscaping it will shield the water tank as well. We have other water tanks in the city with antennas on them as well.

Tanda: I am opposed because we deferred this item so that all of those who had a concern could voice their opinion. One gentleman stated that there could be other viable alternatives. AT&T did not address that.

**THE MOTION PASSED (4-2-0-1) WITH THE FOLLOWING VOTE:**

**AYES: KOEPP-BAKER, MUELLER, MCKAY, MONIZ;**

**NOES: TANDA, DOMMER; ABSTAIN: NONE; ABSENT: BENICH.**

**3) SUBDIVISION,**  
**SD-11-08/**  
**DEVELOPMENT**  
**AGREEMENT,**  
**DA-11-07, ZONING**  
**AMENDMENT,**  
**ZA-11-15: E.**  
**DUNNE-CITY**  
**VENTURES:**

Request for approval to rezone 3.8 net acres from CCR (Central Commercial Residential District) to PD (Planned Development with a precise development plan), subdivision map and a development agreement to allow the construction of 35 attached townhomes and 8 detached small lot single family homes for a total of 43 residential units. The subject property is located on the South East corner of E. Dunne Avenue and Church Street. The proposed development project is categorical exempt under Section 15332 of the State CEQA Guidelines-Infill Development Projects; hence no environmental action is required. (APNs: 817-01-056 & 817-01-057)

Piasecki presented his staff report.

Dommer: Is part of the conditions of approval that they must landscape the streets that were not landscaped before?

Piasecki: You will be approving this landscape plan and the revised site plan. We will make sure it is built in accordance with the approved plan set.

Dommer opened the floor to public comment.

Phil Kerr of City Ventures appeared: We're back tonight with what we believe is an improvement on what we had before, so we appreciate your feedback from the last meeting. There hasn't been much residential improvement near the downtown and we're hoping to be one of the first to do that. One thing to point out is that in looking at the aerials of the adjacent properties, you don't see huge green spaces, but they do have green spaces built into them. That is different than what you see when you walk by from the street. We have changed the project so that when you come in you're not looking down a row of garages but you see a trellis first as an entry point. When you round the corner you're looking at the fronts of units. Across the way are open space, trees and barbecue areas so you don't get that corridor effect. There are planting pockets all along the way. We think it's a much better site design. We have homes facing Church and Dunne which creates a nice pedestrian environment. These are two story townhomes and two story single family homes. The townhomes feel like single family homes.

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Mueller: The Planning Commission hasn't awarded this project points for a superior project, so that means you're 1.5 points short to matching your previous RDCS score. Where would you make that up?

Kerr: If you look at the staff report under 1878230-5, regarding the efficient street pattern looping circulation and two points of access, we have gone back and forth with staff working to try and create a second point of access off of Dunne. If you read the new definition of that same section in the RDCS updated narrative, you'll notice that the two points of access have been removed. Sometimes you end up designing for the RDCS. If you read the updated definition, I believe we score the two points, which would give us one more point towards the category total. In the Planning Commission ordinance that was passed, the Commission does have the right to use the new scoring.

Mueller: That would have to be the whole section. You can't pick just one category in the section.

Kerr: We believe we would score the points using the whole section. The second point can be found under 1878301B. This provides for the future extension of streets for proper access to adjacent properties by providing one or more stubs or improvements internal to the project. If you read page 4 of the staff report under Circulation and Parking, we had that point with Myrtle. We took it out with the greenbelt. We would argue that we should still receive the point because we are providing the access. The third place to get a point would be by providing a first aid kit with a poison control document in the kitchen. We would be happy to provide that.

McKay: Is the section on Myrtle going to be bermed to provide a visual barrier between the front entries and the commercial building across the way?

Kerr: It could be. It's not planned to be right now. We would provide a landscape buffer, or potentially a fence. We would work with staff to make sure that the design works with the property owned by the City and with the industrial park. Almost all the development we do as a company is infill locations. We would create a separation that makes the homes appealing because we do have to sell the product.

McKay: I see that you've brought in landscaping to break up the visual mass of the buildings but why don't you offset the units by jogging in and out across the back?

Kerr: We've tried to do that by offsetting the buildings, rather than the units. Also, these are not three story buildings, so it's not a corridor. These are two story. So you have a 30 foot separation with only 26 foot high buildings.

Tanda: On the secondary access onto Dunne, will that still work if the roadway is suppressed?

Kerr: Yes, the high speed train would be at the other end of the property. This would just be changing the pitch for the EVA access. The civil engineer looked at

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it and didn't see any problem. It would be less than a 20 percent slope.

Tanda: Maybe you could explain the loss of RDCS points and trying to make them up elsewhere.

Kerr: RDCS is quite complicated. We want to provide solar on this project. We've asked to exchange the four points gained by the solar in another category for the points lost in the quality project category. We think that seems fair and that not being able to do that contradicts the goal, which is to create the best project for the site. We've tried to keep that to a minimum. The poison control kits are an example. We can provide them because it's not a huge cost to us. We don't think it's a necessary part of the home. We took that off but we will put it back on if we need to. We've tried to improve the overall project.

Tanda: Staff, can you clarify? Do you agree that they have enough points? Do they just need the same amount of points or more total, or do they need the same amount of points in each category?

Mueller: They assumed that they would get the two points for a superior project in Livable Communities. The only people who can award that is the Planning Commission and we haven't awarded a superior project to this redesign. In fact, I don't think we awarded it to the original design.

Tanda: Who prepared the report? Do you agree with City Ventures?

Piasecki: I prepared the report and there isn't necessarily agreement. We're simply pointing out that the applicant is suggesting that there's an offset. Commissioner Mueller is right that it's the Planning Commission's discretion to either grant or not grant the two points for a superior project. If you don't grant that, then they would need to make them up somewhere else. There are options such as providing solar or paying an in-lieu park fee.

Tanda: If those points aren't made up, what are the consequences?

Mueller: The project doesn't go forward if it can't match the score that it got originally. That's Planning Commission policy.

Rowe: There's also language within the RDCS that says if a project deviates below the points obtained through the competition process, it can be grounds for revocation or rescission of the building allocations by the City Council.

Tanda: It seems 181 points is a lot of points. So when they received their 181 points that possibly was at the top of the competition that year?

Rowe: It wasn't the highest scoring. There were projects scoring close to 190 in that competition.

Tanda: So our policy says that if you don't score the same amount of points due to a revision, the allocations are revoked?

Rowe: It's a policy which is in Article 1 of the RDCS which states that should a

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project deviate below, it can be grounds for taking allocations away. It's not an automatic requirement that it occur; it's simply a finding that can be made. Here we have an applicant who is doing a lot to try to enhance the quality of the project even to the extent of reducing the number of units. The intent was to avoid a "bait and switch." It was to prevent projects from going through a competition with a really great project that scores well, and then water down the project later.

Dommer called for a break at 8:06 p.m. and reconvened at 8:14 p.m.

McKay: Does staff evaluate the scoring and provide comment, in addition to the evaluation that the applicant has provided?

Piasecki: With RDCS scoring, if you meet the requirement you get the point. In this case, there are only a few items that have been adjusted from the original scoring but if the Planning Commission doesn't give them the superior project points then they are below the minimum points originally granted for this project. So you need to reconcile that and also whether the stub-out serving the property to the south qualifies for the point that he's asking for. Based on your practice, what have you allowed in the past? You also need to make sure that the project meets the monetary value that has been committed to for the public's sake. But there's only a handful of items that you need to talk about.

Koepp-Baker: Under Orderly and Contiguous Item 5, it has changed its circulation pattern by about 75 percent from what they had before. With adjustments to landscaping, etc., this project now looks a whole lot better, so why did they lose a point?

Jeff Bradley with Metropolitan Planning group, contract employee for the City appeared: The item you referenced scored one point instead of two simply because the current design has one point of public street access, whereas the site design you saw last month had two points of access.

Koepp-Baker: The chances of this piece of land being developed into something desirable are between like 1 and 100. Why lose a point? Why not say, "conditions are such that it cannot change?"

Bradley: It's within the discretion of the Planning Commission to make that determination. We were looking at it literally for evaluating access points.

Moniz: What is the definition of two points of access? Does that mean two driveways? Is an EVA a point of access?

Creer: I've scored the circulation category for a lot of years. We've always looked at it as two points of vehicular access—not one being an EVA. I'm not aware of the change in the language that may have affected this year's competition. I scored this year's applications the same as I scored them in the past.

Moniz: By definition, is an EVA a point of access?

Creer: Not by the way I've scored the criteria in the past.



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Moniz: Jim, do you have discretion to make it so?

Mueller: It would be setting a very bad precedent to make it so. But there are several point opportunities left to the applicant. We just need to find that they will match the scoring before it goes to Council. We don't need to make an arbitrary decision tonight.

Barton Hechtman appeared on behalf of the South County Industrial Park: I previously appeared and expressed concern about the interface between this project and the industrial park, where Myrtle was shown as going all the way through. We asked the applicant to return to a previous version and it appears they have so we are supportive of this. In studying the detail of the development, I've uncovered a problem and a solution. The problem is the greenbelt on Myrtle. As described, the greenbelt is approximately 45 feet wide. The first ten feet are on the City Ventures property. The next 20 feet are a paved roadway. The final ten feet are a curb and wide sidewalk. Under this new scenario, grass is probably planted where the dirt and pavement are now and then most likely a fence will be installed to screen the fronts of the homes from the industrial park. The problem with that is that the curbs were built and dedicated to the City for public street purposes, which the City accepted. What it means is that the City can stop using it for street purposes, but when it does that it goes through a vacation process. Part of a vacation process is to reserve easements. But you also have to reserve private access easements for properties that take access to the public street. That's what is wrong here. If you build a fence, you're depriving the adjoining property of its access. You can't do that. If you put a fence six feet from the face of the industrial buildings, which are warehouse in nature, then you can only have foot traffic into the warehouse and there's no market for that. We came up with a solution. It would require that the first ten feet of pavement be removed and that the fence be put there. That would give a 20 foot wide greenbelt. On the other side of the fence, you would continue to have vehicular access to these buildings. At some point in the future the industrial park will go residential and then the City Ventures project will be required to improve the other 20 feet of the greenbelt. The most likely design would be to have the new residences facing the existing ones with a 40 foot greenbelt in between. We've talked to City Ventures and this is acceptable.

Mueller: Your client has a fence blocking a public street. Why is that?

Hechtman: It was built and no one has asked them to move it. It keeps people out of the area so it eliminates a problem for the city and as described by Commission Koepp-Baker, it is a "road to nowhere."

Mueller: It's just very strange that we have a public right-of-way blocked by a private fence.

Tanda: Where is the fence?

Hechtman: It runs right along the edge of Myrtle as built, or along the end of the pavement on the north side.

Kerr: We are trying to create as much green space as possible, as we have been

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directed to do by the City. This plan works. The rest would be up to the attorneys and the City.

Scott Schilling appeared on behalf of the project: We pulled City Ventures in because they specialize in this type of project in this type of area. They are an excellent infill developer. I feel strongly that this is a better project than what we submitted under Measure C. If it were submitted in the same competition, I think it would score as well or better. Phil Kerr has done an excellent job of addressing some of the difficult technical issues in working with the adjacent industrial park and designing homes with excellent livability. I wholeheartedly push for your support on this.

Dommer closed the floor to public comment.

McKay: How does the fence on the city street affect the open space landscaping?

Piasecki: We did quite a bit of research on that space and cannot find that it was a dedicated public street—that in fact it was city owned land that we can use in any way we choose. When the applicant came up with this configuration, we thought it was advantageous in creating a wide swath that would be landscaped to screen out the industrial site. The representative for the industrial park is stating that some of the tenants rely on the publicly owned property to gain access to the front of their building. That leaves a couple of options: 1) find a way to get to in from the back; 2) allow a strip of access to the industrial buildings for the foreseeable future but ask that it be redesigned into a 12 foot wide interlocking paver that is more attractive. It's not an attractive area and I'd hate to see it left the way it is.

McKay: How is this handled legally?

Piasecki: You could direct that the City Attorney look at options and work with the property owners.

Mueller: If that's publicly owned property, then there's no prescriptive easement. When would this project go to City Council?

Piasecki: February 22<sup>nd</sup>.

Mueller: That's only true if we take action right now due to noticing requirements?

Piasecki: Yes.

Mueller: Do the documents that we have allow you to work a solution prior to February 22?

Piasecki: As stated about the landscaping, this is a green space and we would insist that the applicant improve it and then maintain it. You could add a caveat that explores the feasibility of allowing access to the property to the south in the intervening month and then report to the Council.

Mueller: We need to get this resolved before it goes to the City Council.

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Piasecki: I think all you need to do is give us the direction to look at the options and then point out to Council whatever findings we have. It's a practical problem that we don't want to ignore and we want this to be an attractive green space.

Dommer: Is that industrial park one large piece of land, or is it parceled? Are there any dead access parcels if you take away Myrtle?

Piasecki: No.

Koepp-Baker: How many gates are there into the property?

Piasecki: There's at least one on Myrtle, probably several on Church and one on San Pedro. The biggest problem or impracticality is if there's a tenant space that wouldn't have access to the back loading dock. It would be awkward but it doesn't mean that they couldn't function.

Tanda: We had asked the applicant to address our concerns from last time and I think they did that well. I'm going to support the project as long as the RDCS points are met and the access issues are dealt with. It seems there are a variety of ways to obtain those points without the further involvement of the Planning Commission. I'd like to move the project forward tonight.

Koepp-Baker: I agree.

Mueller: A Class 32 exemption takes no action on top of the Planning Commission within the approval of the documents?

Piasecki: It might not even be approval of the documents. You could just acknowledge you received them.

Mueller: In terms of the Class 32 document, Staff alluded to some wording. I would suggest that it needs to be cleared up. Maybe you could reference actual sewer capacity—something more recent than 2006.

Moniz: I did meet with the applicant last week. We did discuss design alternatives. Considering the constraints of the site, I think they did a fantastic job on making the best of what they had so I agree with Commissioner Tanda.

**COMMISSIONERS MUELLER AND MONIZ MOTIONED TO APPROVE THE PRECISE DEVELOPMENT PLAN AND THE ZONING AMENDMENT WITH THE REQUIREMENT THAT THE CITY WORK WITH THE SOUTH COUNTY INDUSTRIAL PARK AND THE APPLICANT TO RESOLVE THE ISSUE OF THE MYRTLE AVENUE ACCESS BEFORE GOING TO CITY COUNCIL**

Mueller: I still have concerns about losing seven units. I would rather see 50 units. And I don't want to set a precedent by allowing single family units that don't have 20 foot driveways in front, like everyone else is required to have [MHMC 18.50.190]. And we've got an RDCS score which may end up dropping a fee

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payment and I don't recall one ever allowing a project to drop a fee payment. The only reason I'm leaning towards going with it is because it gets the project built and it produces a 40 percent reduction in the electricity bill for all the units by adding solar. That's a trade-off I'm willing to make for this type of infill project.

Tanda: Sometimes these vacation issues take a long time.

Piasecki: We believe that there is underlying ownership by the City and it hasn't been dedicated as a road, so we don't need to vacate it as a road.

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:  
BENICH**

**COMMISSIONERS MUELLER AND MONIZ MOTIONED TO APPROVE  
THE TENTATIVE MAP CONTINGENT UPON THE CITY COUNCIL  
APPROVING THE PRECISE DEVELOPMENT PLAN AND THE PD  
OVERLAY BEFORE THE VESTING TENTATIVE MAP IS APPROVED  
AND INCLUDING ANY CORRECTIONS PROVIDED BY STAFF**

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:  
BENICH**

**COMMISSIONERS MUELLER AND MONIZ MOTIONED TO APPROVE  
THE DEVELOPMENT AGREEMENT WITH THE REQUIREMENT THAT  
THE RDCS SCORING IS REFLECTED IN EXHIBIT D PRIOR TO GOING  
TO CITY COUNCIL AND INCLUDING CORRECTIONS PROVIDED BY  
STAFF**

Mueller: I am still concerned about the scoring, but substituting solar may be a valid trade-off.

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:  
BENICH**

## **OTHER BUSINESS:**

Behzad presented her staff report.

## **4)PRESENTATION ON ANNUAL CAPITAL IMPROVEMENT PLAN (CIP) BUDGET FOR FISCAL YEAR 2012/2013**

Moniz: Regarding Page C9, RDA Funding of 7.2 million, how safe is that and when will you know whether or not that can be spent in downtown parking?

Behzad: It's very unclear at this point.

Moniz: So we could fall out of contract on projects, if the state takes our money.

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Behzad: That's one of the questions that staff brought up. We do have some projects that are even under construction and we have been told that there is no guarantee that the project will move forward. There is a possibility that the project could be stopped. Having a contract is not necessarily going to save a project.

Moniz: It's just scary to think that the Butterfield extension could be stopped tomorrow.

Behzad: That could happen.

Mueller: What is the possibility of getting clarity in time for this budget cycle?

Behzad: There is a deadline of February 1<sup>st</sup>. A list is being compiled of all the information and we are generating a list of all the projects that are either ongoing or planned to be budgeted by RDA funding. That will be submitted to the state or county.

Rowe: There is list of enforceable obligations—which is what we would consider the Butterfield extension to be.

Mueller: But the oversight board is not even scheduled to be in place until May 1<sup>st</sup>.

Behzad: You're right.

Koepp-Baker: There is an item about redoing the landscaping at the Community Center but it says it's contingent on Water District funding. Is an application in for that funding?

Behzad: I believe an application was submitted, but I'm not sure we got the grant. I will let you know.

Koepp-Baker: Do we have money to redo it without that funding?

Behzad: I will look into that and report back.

Mueller: Two projects that were recently completed are the walking path for Live Oak students on the north side of Main, and sidewalks all the way from Dunne to Tennant. Those were used immediately. One thing I saw in a staff report from the City Attorney regarding new laws is that districts cannot prohibit gray water outright. So we probably need to look at putting an ordinance in place. Another thing that needs to be dealt with is street light synchronization.

Creer: We have a consultant under contract to do the timing portion of the synchronization of Cochrane. We don't have funds to do the implementation because that would have involved the use of RDA funds. There has not been much discussion about Butterfield. The problem with Butterfield is that the signal spacing is so great that you can't keep cars in a platoon. The cars start to break apart over a certain distance so you don't get the benefit of synchronization.

Mueller: Tennant has already been done?

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Creer: Yes.

Mueller: How are we going to approach PL 566, assuming the construction documents are done and the environmental documents are complete? If we proceed are we going to be told the federal government doesn't have money?

Behzad: Staff had a meeting with a consultant that I believed is named RMC. They are doing the design and it is scheduled to be completed in 2013. We asked them the same question. They are hopeful that they can start construction in 2016, but there is no guarantee whether funding will be available.

Mueller: I realize there is a danger in moving ahead without federal funding, but given the importance of the downtown, we ought to be thinking about Plan B.

McKay: Did the most recent design include the tunnel option?

Behzad: Yes.

Tanda: When you bring this back could you show the consistency between the CIP and the General Plan because that's the whole purpose of bringing the CIP before the Planning Commission?

Behzad: Sure.

Tanda: The CIP in Morgan Hill has always been where a project only makes the list if there is funding. Given the status of RDA and that there may not be funding for some of those projects, will some of those drop from the list? And will there be a change in how Public Works presents this?

Behzad: We can go ahead and generate a matrix of projects needed but not funded.

Tanda: Yes, that's a wish list but CIP needs to be what we actually plan to do with some level of confidence. If there's no funding and no prospect of funding, it shouldn't be included. Also, could you look into the funding for the Butterfield linear park? The narrative says BTA but the funding source says AB 1600. Also, regarding park land purchases, there is a goal is to acquire acreages and there is \$2,000,000 allocated in FY 2012/13. How many acres will that buy, because I believe we have a target amount of 35 to 40 acres to meet?

Behzad: I don't have an answer for you. It depends on the area and how big of a parcel it is. I can check with Steve Rymer, who has been talking with property owners, and we can report back in April.

Rowe: I think they're looking at 40 acres.

Mueller: The number one priority right now is to find 20+ acres for outdoor sports fields. To me, that doesn't go toward the five acres per thousand.

Tanda: We're proposing to allocate about \$75,000 over five years toward open

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space. Can you confirm what the difference is between open space and park land?

Rowe: Open space is used for acquiring hillside properties to preserve scenic view sheds and to provide opportunities for hiking—it's more of a passive recreation. There is some consideration being given to using it for conservation easements for agricultural lands as well. That requires some change to the code. To reiterate, the park fund is used for park land acquisition, development and maintenance as opposed to the restricted fund which can only be used for acquisition and development. The open space is an unrestricted fund, which are funds that the developers commit to pay in the open space category of the RDCS and are used primarily for hillside open space lands.

Tanda: So park land is active use and open space is no use?

Rowe: We are developing a trail plan to allow people to hike to the top of El Toro. Some of the funds are also used for the maintenance of open space lands.

Tanda: But you can't interchange funds, like using open space money for park lands?

Rowe: The use of the unrestricted funds is set by Council Policy.

Tanda: The Madrone Channel is on Page C24 and it shows no funding and no expenditure. Is this one that is staying on the list because it was previously funded but now it has been de-funded?

Behzad: The project is under construction right now or we awarded the contract, so construction will start this year. We left FY 2011/12 projects on in case a delay happens and project won't get completed in FY 2011/12. Then we can include it in 2012/13 for completion.

Tanda: So it's just continued as a contingency?

Behzad: That's correct.

Tanda: Is that the same for the Community Center landscape conversion?

Behzad: That's funded by RDA and we're anticipating getting a grant for \$10,000 from the water district, so the RDA portion is unknown at this point. I will look into the grant and/or other possible funding.

Mueller: Do most of these grants require matching funds?

Behzad: Some, yes.

Mueller: With RDA going away, will we have any source of funds?

Behzad: Most of the grants that we receive from the Santa Clara Valley Water District (SCVWD) do not require matching funds.

Tanda: The narrative points out that the sale of \$14,000,000 in RDA bonds will

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pay for improvements to the RDA portion of the sewer plant expansion. Is that under jeopardy?

Behzad: I will look into it and get back to you.

Mueller: If the funding isn't secured, then we need to know when the plant will run out of capacity.

Tanda: The big trunk line shown on Page C43 Phase 2A between the plant and Morgan Hill shows a shared cost of \$15,000,000 and we only show a budget of \$60,000.

Behzad: This project is under design this fiscal year. It is not funded by RDA. It is funded by the sewer impact fund. The reason we have \$60,000 budgeted in fiscal year 2012/13 is that after we're done with this phase, we're going to go back and study which section is the highest priority to target next. The \$60,000 is for that study.

Tanda: Does this go hand-in-hand with the plant expansion?

Behzad: I don't believe it does. The particular area we're looking at between Tennant and California is where we have a bottleneck and we've had a sewer spill in the last few years, so I don't believe it goes along with the sewer plant. It depends on the flow and whether we have another trunk that could accommodate the flow. But I will look into that as well.

Tanda: I was wondering about the funding for storm pipes and inlets on Page C51. We don't have any funding for that.

Behzad: That's because it's budgeted for this year. It remains on the list for the contingency factor. The phase that we've talked about is the very last phase for that project and the budget is coming from the storm drain fund.

Tanda: Is the Butterfield north extension a project that we may not have funding for?

Behzad: It was originally funded by RDA but we took the funding away and used it for the Butterfield south extension. I believe the Butterfield north extension will be funded by traffic impact fees. It doesn't show it here but that's what the plan is.

Mueller: Is that included in the traffic impact fee calculation? I thought those fees were limited to projects that were identified when the fee was calculated.

Creer: We'll be initiating an update to the traffic impact fee with a study this coming year. We'll be looking at all our needs.

Mueller: So the funding for that would have to wait until that "needs" study is completed and it's included?

Creer: That's correct.



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Tanda: Is undergrounding Monterey utilities a project that “bit the bullet?”

Behzad: Yes. It took us a couple of years to come up with plan with PG&E. We finally got the design underway, so we’re really hoping that we can get the funding to move forward with that.

Tanda: Would that be from PG&E?

Behzad: That’s Rule 20A, but there’s a portion—the street light design—that was to be funded by RDA. It all depends on whether PG&E is ready to go, and then we will definitely pursue another funding source. I think we’re talking about approximately \$200,000 for street lights. But the majority of the funding is coming from Rule 20A and PG&E already has funding for that in their possession.

Tanda: It appears there is still money for the pavement rehab program of about 1.2 million. What percent is that of the need? I’m thinking you probably need 10 to 15 times that amount.

Creer: We’re looking right now at the 2012 PMP draft. Based on the draft report, it’s saying that if we wanted to keep our streets at the current pavement condition index or increase it by a few ticks; we’d need to spend about six million per year.

Tanda: That would include sealing?

Creer: Yes, 30 percent of the funds would go towards preventive maintenance.

Mueller: So when the report comes back in April it would be good to have some statement of where our unfunded need is there, so we can keep reminding the Council that it’s a problem.

Tanda: What about the Hale Avenue extension and is it subject to the City’s ability to keep those funds?

Behzad: That project is under design right now, but the answer is it’s a bond project so it is in question.

Tanda: What is the status of the Monterey Road streetscape project?

Behzad: That is a bond project, so it is in question also.

Mueller: If we do the environmental work for Hale, that has a shelf life, so we’d have to be aggressively looking for a source of funds.

Behzad: We are constantly looking for grants to fund this project.

Tanda: Regarding the RDCS school safety improvements, do we have any pedestrian data regarding school age children for Morgan Hill?

Behzad: We did have a consultant that was hired to look at the safe routes to school and some areas where we needed improvement.

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Creer: Those are funds that we take in through the schools category of the RDSCS process and are monies spent to improve paths of travel to the school sites. In the case of Sobrato, there is a simple solution to provide a sidewalk on the south side of Burnett Avenue for those students that live on the south side to get down to the front of the school. Then we'll put in a crosswalk at that location. We don't have any accident data to qualify us to do this; it's just a simple and safe thing to do.

Tanda: Do we have any system that does gather and analyze crash data?

Creer: No, nothing.

Mueller: If I remember right, the lease with the school district on the corp yard land was due to expire last year. And if that's true, is the school district relocating soon?

Behzad: I haven't heard any plan that they are moving but I will certainly look into it.

McKay: The City is changing out all the heads on the street lights. Was that under a maintenance budget?

Creer: The first phase was done with an ARRA grant, which were federal recovery funds. The second phase was done with RDA funds and within the RDA area. That is basically complete. PG&E did the work for us and they have indicated that they will loan us \$500,000 over a two year period to do additional replacements. PG&E would be paid back through the energy savings we receive over a certain period.

Mueller: How far would that get us?

Creer: The cost of LEDs is coming down. We did approximately 1,300 lights and it cost us \$784,000. We have a total of 3,600 street lights in the city. We converted about 210 with the first phase, so we've converted around 1,500 to date. So we've converted about half at a total cost of close to \$1,000,000. If we wait a year or two, the price should come down a bit and then we could convert more with the \$500,000. We're also looking at options of developers retrofitting their past phases of developments with LEDs by using RDSCS funds. We want it to be as clean a transition as possible within the residential developments.

Mueller: We might have the RDSCS subcommittee look at whether there's a way to encourage that for ongoing projects.

Behzad: We are implementing the same policy for the CIP projects, so LED lights are now being installed as part of all CIP projects.

Formalize a Planning Commission Policy to allow a transfer of different fiscal year building allocations between projects.

Rowe presented his staff report: Recently, KB Home has expressed an interest in

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### ALLOTMENTS BETWEEN PROJECTS:

doing this because they are confronted with a gap in their schedule. They only have allocations through the end of the current year. If they're successful in getting allocations from this most current competition, those will be for FY2013/14 and they have no allocations for the interim. Their other project, Sherimar, does have available allocations. They'd like to transfer them so there's no interruption in a project that's moving forward quickly. That's a different situation than in 2007 when projects were behind schedule and wanted to trade away some of their allocations to buy themselves some time. But the basic rules of the transfer would still apply. Two things to consider would be that under policy item Number 1, the transfer does not apply to building allocations that were extended from a prior fiscal year into the current year. Do you want to continue having that limitation because it limits which projects would be in line to do the transfer? Another thing to consider is whether a project can transfer allocations between fiscal years? In the case of Monterey-Dynasty, they would like to allow a portion of the townhouses to be built in the same fiscal year that was originally allotted to the condo rental portion. And then they'd like to extend out the condo rental portion to help them with their phasing. That one has some complications because their allocations were in two separate competition categories. Part of them were in the Rental category and part were in the Open Market category. The rules we have don't really address that.

Mueller: Given the economics of the times, we have to suspend that extended portion for a period of time. We have way too many allocations that have been extended three or four times to not allow swaps.

Rowe: That would greatly expand the pool of available allocations that can be transferred.

Koepp-Baker: Would you actually sunset it?

Rowe: The BMR reduction program has a sunset of June 30, 2014.

Mueller: So sunset it at the same time. We can always extend it later. And on the Dynasty project, if that would help the project get funding and move forward I wouldn't have a problem, as long as it's proportional. What we don't want is for them to transfer a whole bunch and build out the townhome ownership and then not do the rentals. If we're going to swap it, we need to hold their feet to the fire somehow.

Tanda: Can we talk specifically about that project?

Mueller: We're using that as an example to ask the broader question, "Can you transfer allocations project to project, and can you transfer within a project?" I don't have an objection to transferring within a project as long as it's proportional when there are two separate categories involved.

Rowe: I'll bring back a policy in final form to go on the consent calendar, so that you're comfortable with the final wording.

Tanda: I'm very confused. What are you recommending?

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Rowe: That we suspend the second part of Item 1 and include a sunset date of June 30, 2014. And that if you want to allow transfers within a project, I can add that to the list of rules. Then I'll bring the final wording back to the commission to accept.

Tanda: Why can't a project trade the current fiscal year's allotments?

Rowe: Because the receiving developer would not have time to commence construction before the deadline of June 30<sup>th</sup>, so they would have to ask for an extension and that defeats the purpose.

Tanda: I don't get it.

Mueller: If a project doesn't have all its entitlements, it would be very hard to have everything in place and actually commence construction in that short amount of time.

McKay: Regarding Item 1, can you actually insert the current fiscal year to give clarity?

Rowe: Yes.

McKay: Do the allotments that are being transferred have to be the same competition category?

Rowe: That was not a requirement in the previous policy.

McKay: So it's a straight swap?

Rowe: Correct.

Tanda: If you replaced Items 1 and 2 with the following, would it accomplish the same thing: "The transfer of building allotments must occur so that there is sufficient lead time to obtain the building permit and commence construction during the fiscal year"?

Rowe: You could, but the reason we say June 30<sup>th</sup> is because that's the actual commence construction deadline called out in the development agreement.

Koepp-Baker: If there is something we can do to help developers and keep projects going, we need to do it.

Tanda: I agree with Commissioner Koepp-Baker completely. We ought to have these rules set up to facilitate the timely construction of units and, if necessary, make adjustments to accommodate that.

Rowe: That is the intent for this.

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**COMMISSIONERS MUELLER AND KOEPP-BAKER MOTIONED TO APPROVE THE PLANNING COMMISSION POLICY**

Rowe: Rather than move to approve it this evening, let me bring it back with updated wording for the next time.

Tanda: I'd like to know City Council's opinion on this.

Mueller: If all the allocations are awarded in the future, you cannot move later year allotments before current year allotments.

Tanda: So we would limit their ability to move forward in a "hot" market.

Mueller: Precisely. That's what Measure C is for—to control growth. The transfer of allocations can buy time for a project that needs the time and also allow another project to start sooner than they would normally have been able to. But they can't start sooner than the date allowed by the fiscal year they've traded for.

Tanda: Would we encourage it if everyone wanted to build all the existing allotments at the same time?

Mueller: Of the approximately 1,400 allocations outstanding, probably 900 of those were awarded in 2011/12 or before. You could build 900 homes in the next twelve months. The only ones that are prohibited from starting are 2012/13 and 2013/14. Everything else is buildable right now.

Tanda: So they don't need to utilize this policy if they're ready to build and they have the allotments.

Mueller: Exactly. Having gotten an extension doesn't matter. They just have to have been awarded in a previous competition in order to build now. There is nothing holding back any developer from building right now.

Rowe: Other than the market's ability to absorb it and the banks' willingness to lend.

**COMMISSIONERS MUELLER AND KOEPP-BAKER MOTIONED TO CONTINUE ITEM 5**

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:  
BENICH**

Mueller: Do really want to meet on February 14<sup>th</sup>, as it is Valentine's Day?

Rowe: The problem is we have a lot on the agenda for that night.

**ANNOUNCEMENTS/  
COMMISSIONER  
IDENTIFIED ISSUES**

None.

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**CITY COUNCIL  
REPORTS**

None.

**ADJOURNMENT**

Noting that there was no further business for the Planning Commission at this meeting, Chair Dommer adjourned the meeting at 10:17 p.m.

**MINUTES RECORDED AND TRANSCRIBED BY:**

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**ELIZABETH BASSETT, Development Services Technician**

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